

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TAKEDA PHARMACEUTICAL)	
COMPANY LIMITED, TAKEDA)	
PHARMACEUTICALS U.S.A., INC. and)	
TAKEDA PHARMACEUTICALS)	
AMERICA, INC.,)	
)	
Plaintiffs and)	
Counterclaim Defendants,)	
)	
v.)	C.A. No. 16-246 (LPS)
)	
TEVA PHARMACEUTICALS USA, INC.,)	
)	
Defendant and)	
Counterclaim Plaintiff.)	

STIPULATION AND ORDER OF DISMISSAL OF ACTION WITH PREJUDICE

WHEREAS, plaintiffs and counterclaim-defendants Takeda Pharmaceutical Company Limited, Takeda Pharmaceuticals U.S.A., Inc., and Takeda Pharmaceuticals America, Inc. (collectively, “Takeda” or “Plaintiffs”), and defendant and counterclaim-plaintiff Teva Pharmaceuticals USA, Inc. (“Teva” or “Defendant”) are engaged in litigating the above-captioned proceeding (Takeda and Teva together will be referred to as “the Parties”);

WHEREAS, in its Complaint (D.I. 1), Takeda asserts that Teva infringes U.S. Patent No. 6,328,994 (“the ‘994 Patent”), U.S. Patent No. 7,431,942 (“the ‘942 Patent”), U.S. Patent No. 7,875,292 (“the ‘292 Patent”), and U.S. Patent No. 7,399,485 (“the ‘485 Patent”) (collectively, the “Patents-in-Suit”) with respect to Teva’s Abbreviated New Drug Application (“ANDA”) No. 208784;

WHEREAS, in its Answer, Affirmative Defenses, And Counterclaims (D.I. 11), Teva asserts non-infringement defenses and related counterclaims to the Patents-in-Suit;

WHEREAS, in its Amended Answer, Affirmative Defenses, and Counterclaims (D.I. 33), Teva additionally asserts invalidity defenses and related counterclaims to the '994 Patent;

WHEREAS, the Parties wish to resolve this action on the terms and conditions set forth herein.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties, by their undersigned attorneys that:

1. For purposes of this Stipulation and Order, "Instant Action" shall mean the claims, defenses, and counterclaims asserted herein regarding Teva's ANDA No. 208784 and any formulations disclosed therein as it existed as of September 8, 2016, as well as any future changes to that ANDA or formulations disclosed therein made subsequent to September 8, 2016, that would not materially alter the infringement analysis under the Patents-in-Suit prior to their expiration.

2. Plaintiffs hereby dismiss with prejudice their claims in the Instant Action with respect to the alleged infringement of the Patents-in-Suit; provided, however, such dismissal is limited solely to the claims as they pertain to the Instant Action and is without prejudice to Plaintiffs' ability to assert such claims in the context of any other action that may be commenced against Teva in the future based on the Patents-in-Suit.

3. Defendant hereby dismisses without prejudice its defenses and counterclaims in the Instant Action with respect to the Patents-in-Suit; provided, however, such dismissal is solely limited to the defenses and counterclaims as they pertain to the Instant Action and is without prejudice to Defendant's ability to assert such defenses in the context of any other action that may be commenced in the future against Teva based on the Patents-in-Suit.

4. The Parties shall bear their own costs and attorneys' fees as to the dismissed claims, defenses, and counterclaims.

AGREED AND STIPULATED TO:

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

SHAW KELLER LLP

/s/ Maryellen Noreika

/s/ Karen E. Keller

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March 14, 2017

SO ORDERED this _____ day of March 2017

The Honorable Leonard P. Stark, Chief Judge